

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 25, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No: 05od-023

OAHU

Re-submittal - Affirm the Encroachment Area; Grant of Term, Non-Exclusive Easement to Garrett Frank Saikley Trust for Revetment Purposes, Kuliouou, Honolulu, Oahu, Tax Map Key: (1) 3-8-1:1 portion.

BACKGROUND:

The subject submittal (Exhibit A) was deferred from the meetings on February 22, 2008 and March 14, 2008 to allow the department and the applicant to negotiate a compromise, if possible.

Pursuant to the Board's instruction, staff met with the attorney representing the applicant in early March. Both parties were not able to reach any agreement on the subject issue.

Staff believes the department's position outlined in the previous submittal is proper, and recommend the Board adopt the recommendation.

RECOMMENDATION:

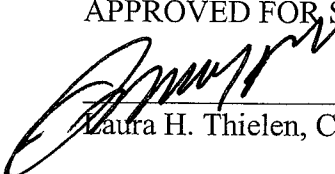
1. Affirm the encroachment area to be 1,516 square feet, more or less, as determined by State Survey Division; and
2. All terms and conditions listed in its February 11, 2005, item D-2 approval to remain the same.

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Laura H. Thielen, Chairperson



0500023

D-10

**DEFERRED**

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

February 22, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No: 05od-023

OAHU

Re-submittal - Affirm the Encroachment Area; Grant of Term, Non-Exclusive Easement to Garrett Frank Saikley Trust for Revetment Purposes, Kuliouou, Honolulu, Oahu, Tax Map Key: (1) 3-8-1:1 portion.

BACKGROUND:

The subject submittal was scheduled for January 11, 2008 meeting. Mr. Saikley was out-of-state and requested the opportunity to present testimony on the matter in person before the Board.

The subject submittal is requesting the Board to affirm the encroachment area based on a recent field survey conducted by the State Survey Division.

In 2002, the owner of the property identified by tax map key as (1) 3-8-1:69, Garrett Frank Saikley Trust (applicant), was in the process of applying for a shoreline certification to facilitate the renovation project on the property. There was a revetment, i.e. encroachment, abutting his property that prevented the Chairperson from certifying the shoreline pursuant to Hawaii Administrative Rules. Therefore, the applicant requested the Board issue a non-exclusive easement to resolve the encroachment.

On February 11, 2005, under agenda item D-2, the Board authorized the issuance of a 55-year non-exclusive easement for revetment purposes to the applicant. A copy of the approved submittal in 2002 is attached as Exhibit A. In the approval, the revetment area was cited as "300 square feet, more or less", which was based on the survey map, now attached as Exhibit B, prepared the private land surveyor hired by the applicant. Further, the Board authorized the collection of a deposit of \$36,455 from the applicant, which is the sum of the estimated consideration for the proposed easement and related fees. With the payment of the deposit and the Board approval for an easement, the subject shoreline was certified on August 2, 2005.

Pursuant to the Applicant Requirements in the approved submittal, an application to the Subdivision Branch of the City and County of Honolulu (City) for approval of designating an

Deferred  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
February 22, 2008 MB

**EXHIBIT "A"**

D-10

easement was submitted in October 2005. Staff did not receive any decision from the City notwithstanding repeated contacts with the City. In December 2006, staff became aware that approval from the City was not required for any properties in conservation district.

For the Board's information, the proposed easement is situated within the area covered by Governor's Executive Order No. 4105 to Division of Forestry and Wildlife (DOFAW) for wildlife sanctuary purposes. Governor and DOFAW concurrence to the proposed disposition are required prior to issuance of the easement document. Governor concurred to the request on March 7, 2007, and the appraisal for the one-time payment based on the unconfirmed estimated area was approved by the Chairperson on June 21, 2007 at \$15,530 for 298 square feet.

Originally, DOFAW intended to obtain an easement from the applicant on the lagoon side of the property for vehicular purpose. After a site inspection on June 28, 2007, DOFAW agreed that such easement should be treated separately from the subject request and concurred to the subject request. At the same inspection, staff and DOFAW noted that the encroachment should be wider than the 2-foot strip estimate submitted by the applicant. Staff conveyed the message to the applicant and his attorney at the site.

In response to a letter from the applicant in September 2007 requesting return of his deposit, staff responded by asking for a revised map and description. Following a meeting with the applicant's attorney in November 2007, State Survey Division conducted a field survey as required by the February 11, 2005 Board approval and determined the subject encroachment to be 1,516 square feet. A copy of the map and photos are attached as Exhibit C & D respectively.

Staff verbally informed the applicant's attorney about the latest area. Due to the substantial difference between the estimated area and the actual affected area, the attorney requested the issue to be addressed by the Board.

#### REMARKS:

On April 28, 1978, the Board addressed the prior efforts to protect the property in item H-13 (Exhibit E) regarding the emergency action taken by the previous owner (Inaba). The submittal noted that Inaba put gravel and rocks in front of his private property to halt the wash of the waves. The Board ratified Inaba's efforts, and "authorize Inaba to take such action to the extent that the emergency is alleviated." This action was an agreement and authorization in principle to allow certain emergency work to proceed but did not constitute a final land disposition. Other divisions of the Department did not have any objections to the emergency work undertaken by Inaba.

Pursuant to the 1978 submittal, the attorney representing the applicant believes that the issuance of an easement for his client becomes moot. When he first approached the State regarding the shoreline certification in 2004, he was told that his client had to resolve the encroachment issue. Since the Board already authorized Inaba's efforts in 1978, he believed that his client should not

be asked to execute a disposition with the State.

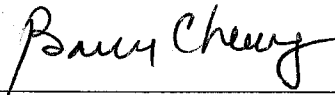
According to the submittal and minutes of the 1978 approval, the action was silent regarding if Inaba was required to obtain a land disposition to document the emergency work. Staff believes that the Board agreed to the activities conducted by Inaba in 1978 due to emergency. However, placement of long term structures on State land, such as the revetment must be documented by a land disposition authorized by the Board.

Therefore, staff recommends the Board affirm the encroachment area to be revised based on the latest survey conducted by State Survey Division, and the one-time payment be appraised according to the revised area.

RECOMMENDATION: That the Board:

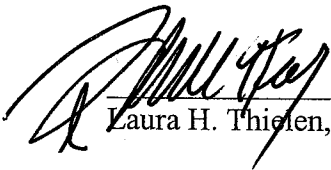
1. Affirm the encroachment area to be 1,516 square feet, more or less, as determined by State Survey Division;
2. All terms and conditions listed in its February 11, 2005, item D-2 approval to remain the same.

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thiel, Chairperson



0-2

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

February 11, 2005

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 050d-023

OAHU

Grant of Term, Non-Exclusive Easement to Garrett Frank  
Saikley Trust for Revetment Purposes, Kuliouou, Honolulu,  
Oahu, Tax Map Key: (1) 3-8-1:1 portion.

APPLICANT:

Garrett Frank Saikley Trust whose business and mailing address is  
P.O. Box 90508, Honolulu, Hawaii 96835.

LEGAL REFERENCE:

Section 171-13 and -53(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of (1) 3-8-1:69,  
Kuliouou, Honolulu, Oahu, identified by Tax Map Key: (1) 3-8-1:1  
portion, as shown on the attached map labeled Exhibit A.

AREA:

300 square feet, more or less, to be determined by DAGS.

ZONING:

State Land Use District: Conservation  
City & County of Honolulu LUO: P-2 General Preservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_\_ NO X

CURRENT USE STATUS:

Unencumbered with encroachments.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON M.O.

February 11, 2005

ITEM D-2

(Note: Another item is submitted under separate cover for today's agenda regarding setting aside the State land, TMK (1) 3-8-001:001 to Division of Forestry and Wildlife for Continuation of the Paiko Lagoon Wildlife Sanctuary purpose.)

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing revetment over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

55 years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

CDUA (OA-1082) dated January 26, 1979 was filed by the State, as the fee owner of (1) 3-8-1:1 was for a revetment at the subject property protecting the shoreline. A negative declaration relating to environmental requirements was filed on April 10, 1978. However, the CDUA which was based on private funding was subsequently withdrawn as such funding was no longer available then.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Process and obtain subdivision at Applicant's own cost (for City & County of Honolulu only);
- 4) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

In 1978, as an emergency measure, the owner of 3-8-1:69 placed rocks along the eroded section to prevent further loss of property and jeopardy to the safety and welfare of the occupants. DLNR and other State agencies were notified of the action by the landowner.

When the staff requested a public hearing in relation to the use of conservation land regarding the owner's action, the Board determined that State was to monitor the erosion surrounding the sanctuary and the beach area. So, the application should come from the State

In January 1979, the State applied for a CDUA for protecting the beach area, and providing public pedestrian access to the sanctuary, and State vehicular access for emergencies and maintenance purposes. The application was subsequently withdrawn as the then owner of 3-8-1:69 decided not to provide the necessary funding of the project. There was no further action on the subject revetment until recently.

The applicant, being the current owner of 3-8-1:69, plans to renovate the house which triggers the need for shoreline certification and building permit. As such, the encroachment will have to be resolved before the shoreline can be certified. A copy of recent survey map showing the revetment is attached as Exhibit B.

Office of Conservation and Coastal Lands (OCCL) does not consider this a violation of Conservation District regulations and rules. There does not appear to be a significant dry sandy beach immediately seaward of or in the surrounding area. The shoreline running east and west has been extensively armored. As such, OCCL comments that the revetment could be retained in place provided that the landowner seeks an easement for the entire loose boulder structure. See OCCL's letter at Exhibit C. Staff only includes the portion of the revetment fronting the private property as the easement area as staff believes this is consistent with the shoreline certification process which we ask the applicant to resolve any encroachment found between the lateral boundaries of the abutting property.

Staff understands OCCL has requested comments from Division of Forestry and Wildlife since they will be managing the sanctuary by way of Governor's Executive Order to be considered by the Board under separate agenda. Both OCCL and staff did not receive any response from DOFAW. Staff did not solicit comments from other agencies.

As mentioned earlier, DOFAW is to obtain a Governor's Executive Order for the sanctuary. As of date of writing this submittal, staff does not know if there are any rules/regulations that DOFAW will be imposing on the sanctuary. Therefore, staff recommends the issuance of the easement be subject to the concurrence of

DOFAW.

We have records indicating that DLNR and other agencies were notified when the revetment was placed at the subject location in 1978 and there was no objection in the file. However, there is no official permit document issued for the work and the current owner is willing to obtain a disposition. Staff recommends the Board waive the fine.

Further, staff is recommending that the Board authorize the acceptance of a deposit from the Applicant. This will allow the Applicant to process the shoreline certification which is needed for the Applicant's to pursue shoreline certification. As standard practice, staff does not allow a shoreline certification to be processed until all encroachments have been resolved through the full execution of legal documents or removal of the encroachments. In the past, shoreline certifications or other approvals were released prior to full document execution and staff found it difficult to compel the Applicant to execute the documents and make payment. Therefore, staff offers this alternative method of collecting a deposit to enable the Applicant to pursue permits and approvals with less risk that the Applicant will not execute the documents. While such a deposit does not completely ensure that the documents will be executed, it does show a strong commitment by the Applicant to enter into an agreement with the State.

The Appraisal Section has cursorily estimated the easement consideration to be \$36,400. With fees, the total estimated deposit amount is \$36,455. The actual consideration will be determined by a full appraisal. Upon execution of the legal documents, this deposit will be applied towards the consideration amount and other applicable charges. If the deposit amount is more than the total, then the Applicant shall be reimbursed any difference (and vice versa). If the Applicant does not execute the document, the Applicant shall be required to remove the encroachments to the satisfaction of the Department or to forfeit the deposit in full which shall be used to remove the encroachment.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

There is no other pertinent issues or concerns.


RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Garrett Frank Saikley Trust covering the subject area for revetment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

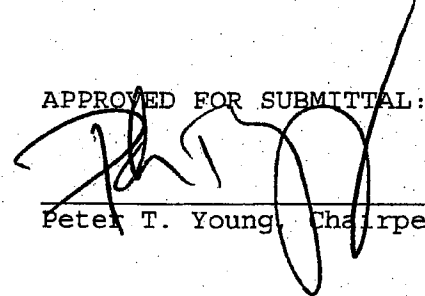
February 11, 2005

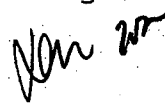
- A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
  - B. Concurrence of the Division of Forestry and Wildlife;
  - C. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 3-8-1:69, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
  - D. Review and approval by the Department of the Attorney General; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
  - F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement
2. Authorize the Department to accept a deposit in the amount of \$36,455.00 from the Applicant as an estimated easement consideration pursuant to the conditions set forth in the Remarks section above.

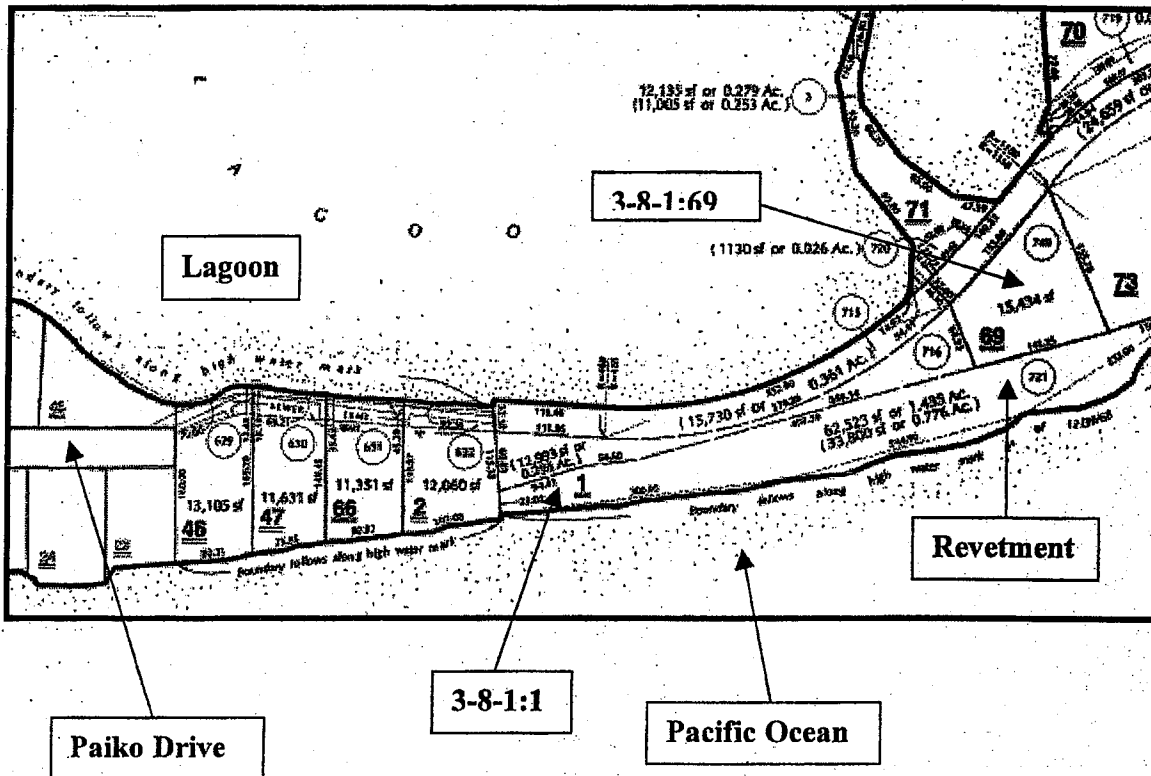
Respectfully Submitted,

  
\_\_\_\_\_  
Barry Cheung  
Acting Supervising Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Peter T. Young, Chairperson





**EXHIBIT A**

TRUE NORTH  
Scale: 1 in. = 20 ft.

# SHORELINE MAP

## LOT 749

### Land Court Application 578 (Map 193)

At Kulaoua 1st, Honolulu, Oahu, Hawaii

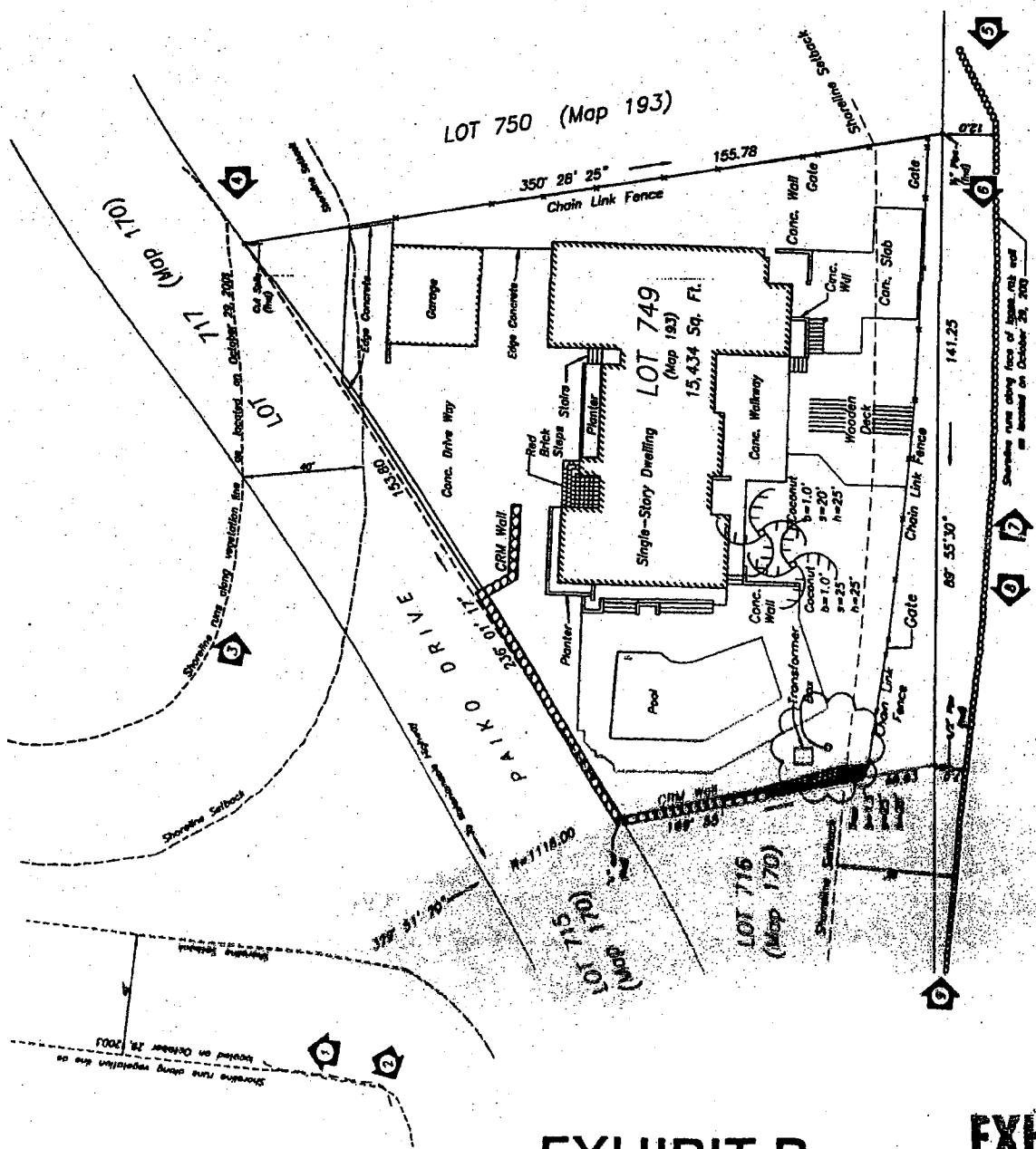
Owner:  
Mr. Corbett F. Saito  
Address:  
101 Pali Drive  
Kulaoua 1st, Honolulu, Oahu, Hawaii 96821



This work was done by me  
or under my supervision

*Kazuyuka Saki*  
KAZUYUKA SAKI  
Licensed Professional  
Land Surveyor  
Certificate No. 740-S  
Land Court Surveyor  
Certificate No. 170

11/12/53  
Job No. 031530



S E A

EXHIBIT B

EXHIBIT B

SAI O. MIKOTA INC.

For Map 193, 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd, 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th, 56th, 57th, 58th, 59th, 60th, 61st, 62nd, 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 73rd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th, 88th, 89th, 90th, 91st, 92nd, 93rd, 94th, 95th, 96th, 97th, 98th, 99th, 100th, 101st, 102nd, 103rd, 104th, 105th, 106th, 107th, 108th, 109th, 110th, 111th, 112th, 113th, 114th, 115th, 116th, 117th, 118th, 119th, 120th, 121st, 122nd, 123rd, 124th, 125th, 126th, 127th, 128th, 129th, 130th, 131st, 132nd, 133rd, 134th, 135th, 136th, 137th, 138th, 139th, 140th, 141st, 142nd, 143rd, 144th, 145th, 146th, 147th, 148th, 149th, 150th, 151st, 152nd, 153rd, 154th, 155th, 156th, 157th, 158th, 159th, 160th, 161st, 162nd, 163rd, 164th, 165th, 166th, 167th, 168th, 169th, 170th, 171st, 172nd, 173rd, 174th, 175th, 176th, 177th, 178th, 179th, 180th, 181st, 182nd, 183rd, 184th, 185th, 186th, 187th, 188th, 189th, 190th, 191st, 192nd, 193rd, 194th, 195th, 196th, 197th, 198th, 199th, 200th, 201st, 202nd, 203rd, 204th, 205th, 206th, 207th, 208th, 209th, 210th, 211st, 212nd, 213th, 214th, 215th, 216th, 217th, 218th, 219th, 220th, 221st, 222nd, 223rd, 224th, 225th, 226th, 227th, 228th, 229th, 230th, 231st, 232nd, 233rd, 234th, 235th, 236th, 237th, 238th, 239th, 240th, 241st, 242nd, 243rd, 244th, 245th, 246th, 247th, 248th, 249th, 250th, 251st, 252nd, 253rd, 254th, 255th, 256th, 257th, 258th, 259th, 260th, 261st, 262nd, 263rd, 264th, 265th, 266th, 267th, 268th, 269th, 270th, 271st, 272nd, 273rd, 274th, 275th, 276th, 277th, 278th, 279th, 280th, 281st, 282nd, 283rd, 284th, 285th, 286th, 287th, 288th, 289th, 290th, 291st, 292nd, 293rd, 294th, 295th, 296th, 297th, 298th, 299th, 300th, 301st, 302nd, 303rd, 304th, 305th, 306th, 307th, 308th, 309th, 310th, 311st, 312nd, 313th, 314th, 315th, 316th, 317th, 318th, 319th, 320th, 321st, 322nd, 323rd, 324th, 325th, 326th, 327th, 328th, 329th, 330th, 331st, 332nd, 333rd, 334th, 335th, 336th, 337th, 338th, 339th, 340th, 341st, 342nd, 343rd, 344th, 345th, 346th, 347th, 348th, 349th, 350th, 351st, 352nd, 353rd, 354th, 355th, 356th, 357th, 358th, 359th, 360th, 361st, 362nd, 363rd, 364th, 365th, 366th, 367th, 368th, 369th, 370th, 371st, 372nd, 373rd, 374th, 375th, 376th, 377th, 378th, 379th, 380th, 381st, 382nd, 383rd, 384th, 385th, 386th, 387th, 388th, 389th, 390th, 391st, 392nd, 393rd, 394th, 395th, 396th, 397th, 398th, 399th, 400th, 401st, 402nd, 403rd, 404th, 405th, 406th, 407th, 408th, 409th, 410th, 411st, 412nd, 413th, 414th, 415th, 416th, 417th, 418th, 419th, 420th, 421st, 422nd, 423rd, 424th, 425th, 426th, 427th, 428th, 429th, 430th, 431st, 432nd, 433rd, 434th, 435th, 436th, 437th, 438th, 439th, 440th, 441st, 442nd, 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LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

Office of Conservation and Coastal Lands  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809  
(808) 587-0377

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

YVONNE Y. IZU  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL: SL

JAN 12 2005

Encroachment: '0A-05-16

Mr. Tim Lui-Kwan  
Carlsmith Ball LLP  
1001 Bishop Street, Suite 2200  
Honolulu, Hawaii 96809

Dear Mr. Lui-Kwan:

Subject: Shoreline Encroachment Easement Request at Paiko Peninsula, East  
Honolulu, TMK: (1) 3-8-1: Seaward of 69

The Office of Conservation and Coastal Lands (OCCL) staff has reviewed the submitted documentation for the subject encroachment. According to the documentation submitted, the encroachment in question includes an area of approximately 33 square feet seaward of the recorded property boundaries. (Note: OCCL staff believes that the request should include the portion of the loose boulder structure situate on State lands that was constructed by the previous land owner.)

According to information contained in a DLNR staff report dating back to 1978, in which the State proposed to build a revetment at the same location (but subsequently withdrew the application), "As an emergency measure, the adjoining property owner placed rocks along the eroded section to prevent further loss of property..."

Although the State recognized the unauthorized actions of the prior landowner, the record does not provide any indication that the matter was either approved after-the-fact, or considered a violation of Conservation District rules and regulations. We find no reference to any enforcement action being taken by the State to resolve the matter. It appears that the DLNR filed, but withdrew a Conservation District Use Application for a new structure that was never built. The matter remained largely unresolved.

EXHIBIT C

Based on the submitted evidence, the OCCL does not consider this matter as a Conservation District violation.

However, the OCCL evaluates the potential long-term negative impact the encroachment poses to the surrounding coastal environment and has considered the following information in weighing the encroachment decision.

The Board of Land and Natural Resource (BLNR) recently established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, the Department established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures

In addition, the Department developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide the Department's decisions on the disposition of shoreline encroachments. This form has been completed and submitted to the satisfaction of OCCL staff. Following is a summary of the Department findings relating to the subject encroachment.

#### Surrounding Land Uses:

The surrounding land is comprised of the Paiko Lagoon Wildlife Sanctuary along with the applicant's single-family residence.

#### Surrounding Coastal Structures:

According to the applicant, the surrounding shoreline to the east and west also has loose boulders.

#### Beach Resources:

There does not appear to be a significant dry sandy beach immediately seaward of or in the surrounding area, although there is evidence of small pocket beaches along this stretch of shoreline. The shoreline running east and west has been extensively armored. Thus, beach resources are considered poor.

**Public Access:**

Although there was a "No Trespassing" sign present, access through the area is available over the portion of state land mauka of the loose boulders and also through the sandy shallows just offshore Paiko Peninsula.

**Effect of Removing the Encroachment on:**

***Beach Resources:*** [Note: In following past practice, the OCCL believes that the encroachment consists of the loose boulder structure that protects the shoreline immediately adjacent to the applicants land. Thus, to rectify this long standing issue OCCL believes that the landowner must either apply for an easement for the entire loose boulder or remove the structure in order to certify the shoreline.]

It is our opinion that the removal of the encroachment (i.e., loose boulders) would have a positive impact on beach resources. It is likely that a sandy beach would replace the boulders over time.

***Public Access:*** Removal of the structures would not improve public access and would more than likely have a negative impact on public access by resulting in the potential diminishment of the land area that may be used for access to the refuge.

***Effect on Immediate Property:*** Removal of the revetment could have a negative effect on the upland private improvements. The loose rubble was apparently emplaced by the prior landowner to protect the private residential improvements, and has likely resulted in substantial private benefits to the landowner.

***Effect on Adjacent Properties:*** Removal of the revetment would probably result in negative impacts to surrounding lands due to flanking.

**CONCLUSION**

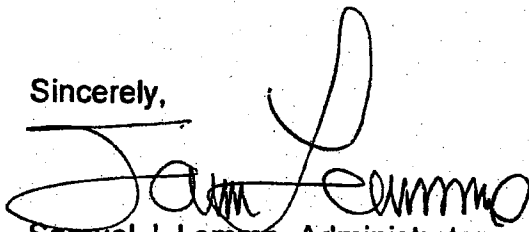
OCCL staff have considered available alternatives and weighed the benefit vs. consequence for removal of the subject improvements. It appears that the boulders could be retained in place provided that the landowner seeks an easement for the entire loose boulder structure.

If an easement is obtained from the State for the use of this area, OCCL recommends that the Pursuant to Chapter 171, your client is required to obtain a land disposition (normally a term easement in these cases) for the use of public lands, and may be subject to a \$500 fine for the encroachment.

Please contact the DLNR, Land Division at (808) 587-0430 regarding the processing of an easement. If you do not pursue an easement, you may be required to remove the encroachment.

We hope this letter helps resolve some of the outstanding issues regarding your property. Please feel free to contact me at 587-0381 if you have any further questions.

Sincerely,

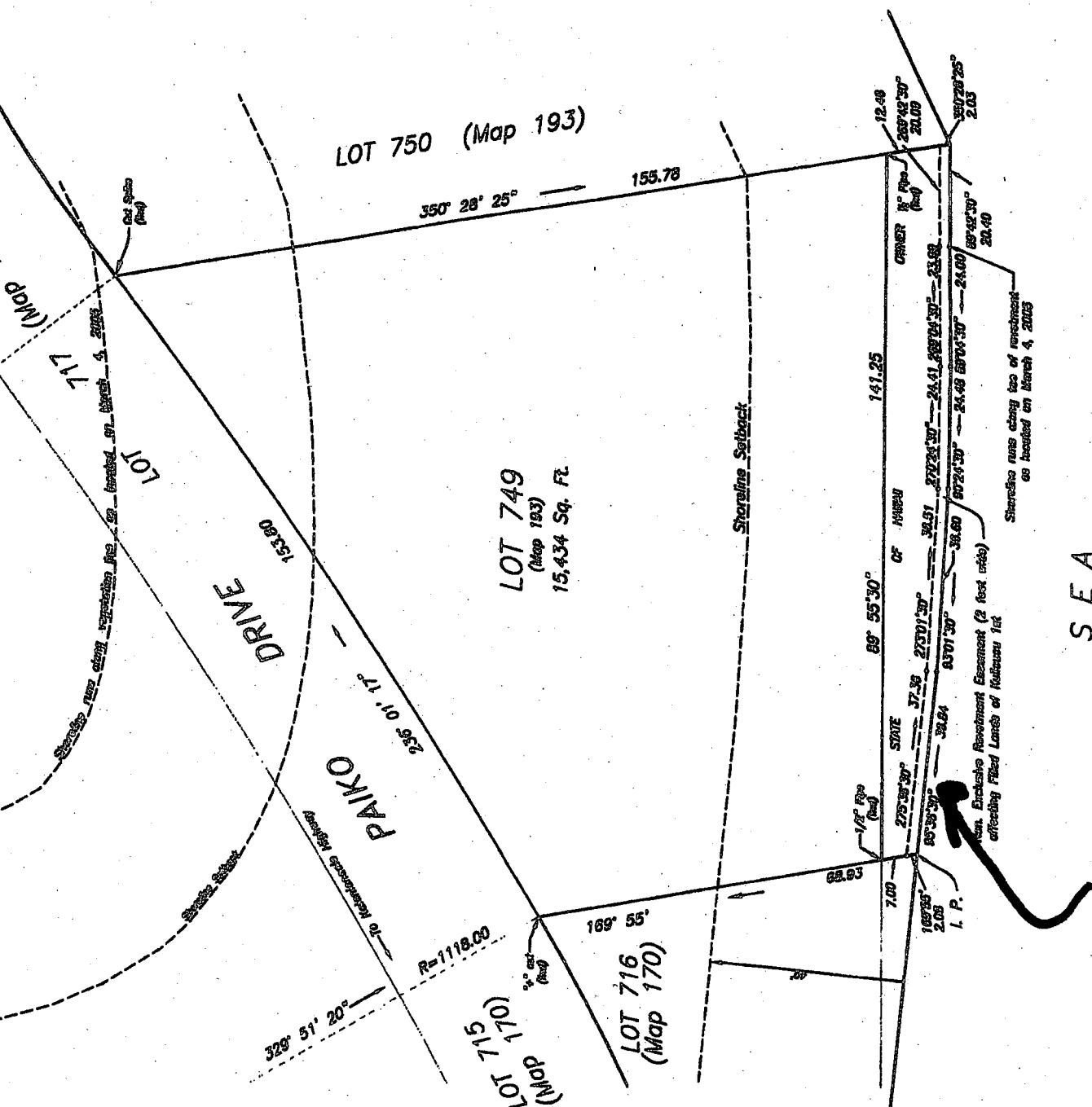
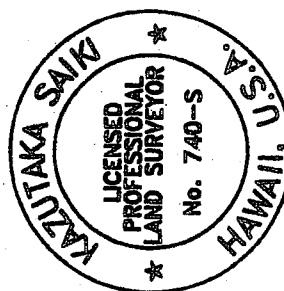
A handwritten signature in black ink, appearing to read "Samuel J. Lemmo". The signature is fluid and cursive, with a large initial "S" and "L".

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

Cc: Oahu Board Member  
Oahu District Land Office  
Oahu Land Division  
Chairperson's Office  
City and County of Honolulu  
Department of Planning and Permitting

1. **NAME** \_\_\_\_\_

**At Kulionou 1st, Hon**



**Area of Revetment Easement = 285 Sq. Ft.**

Tex Map Key: 1st Div. 3-8-01: 69  
March 14, 2005 Revised: Aug. 05, 2005

**SAM O. HIROTA INC.**  
824 BEDFORD STREET  
ACQUITT, MAINE 04001

MAP 301

# LAND COURT

STATE OF HAWAII

## LAND COURT APPLICATION 578

DESIGNATION OF EASEMENT 58

AFFECTING LOT 721

AS SHOWN ON MAP 170

AT KULIOUOU 1ST, HONOLULU, OAHU HAWAII

STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
SURVEY DIVISION



*Glenn Kodani Exp 4/06*  
Licensed Professional Surveyor  
Certificate Number 7275

Kalanimoku Bldg., Rm 210  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

TRUE NORTH  
SCALE: 1 in. = 40 ft.

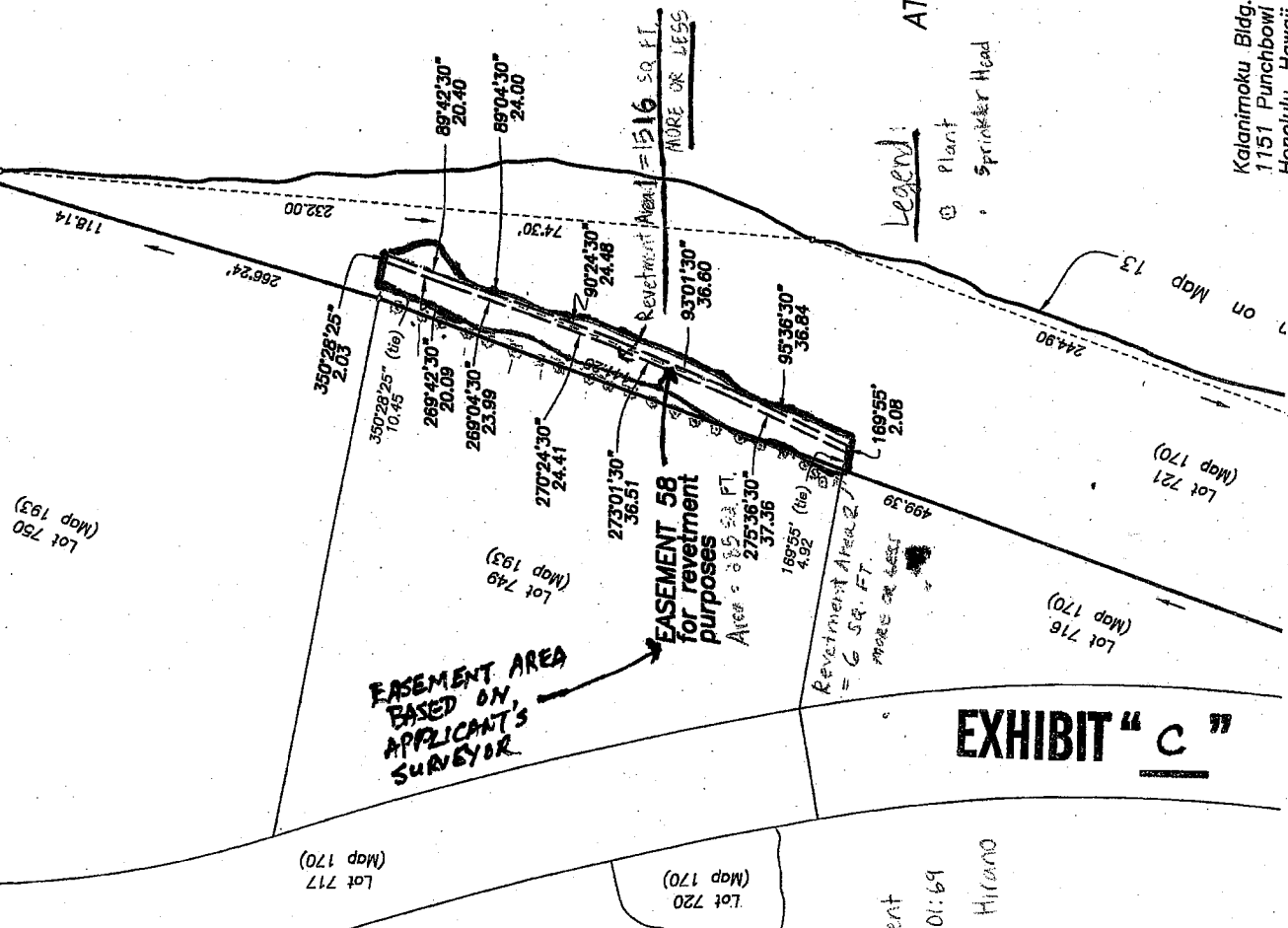


EXHIBIT "C"

0-430 (01)  
Location of Revetment  
Fronting TMK 3-8-01:69  
Survey by: Gavin Hirano  
P.B. 2137: 8-11  
18M L.F. 3-B  
11/9/07

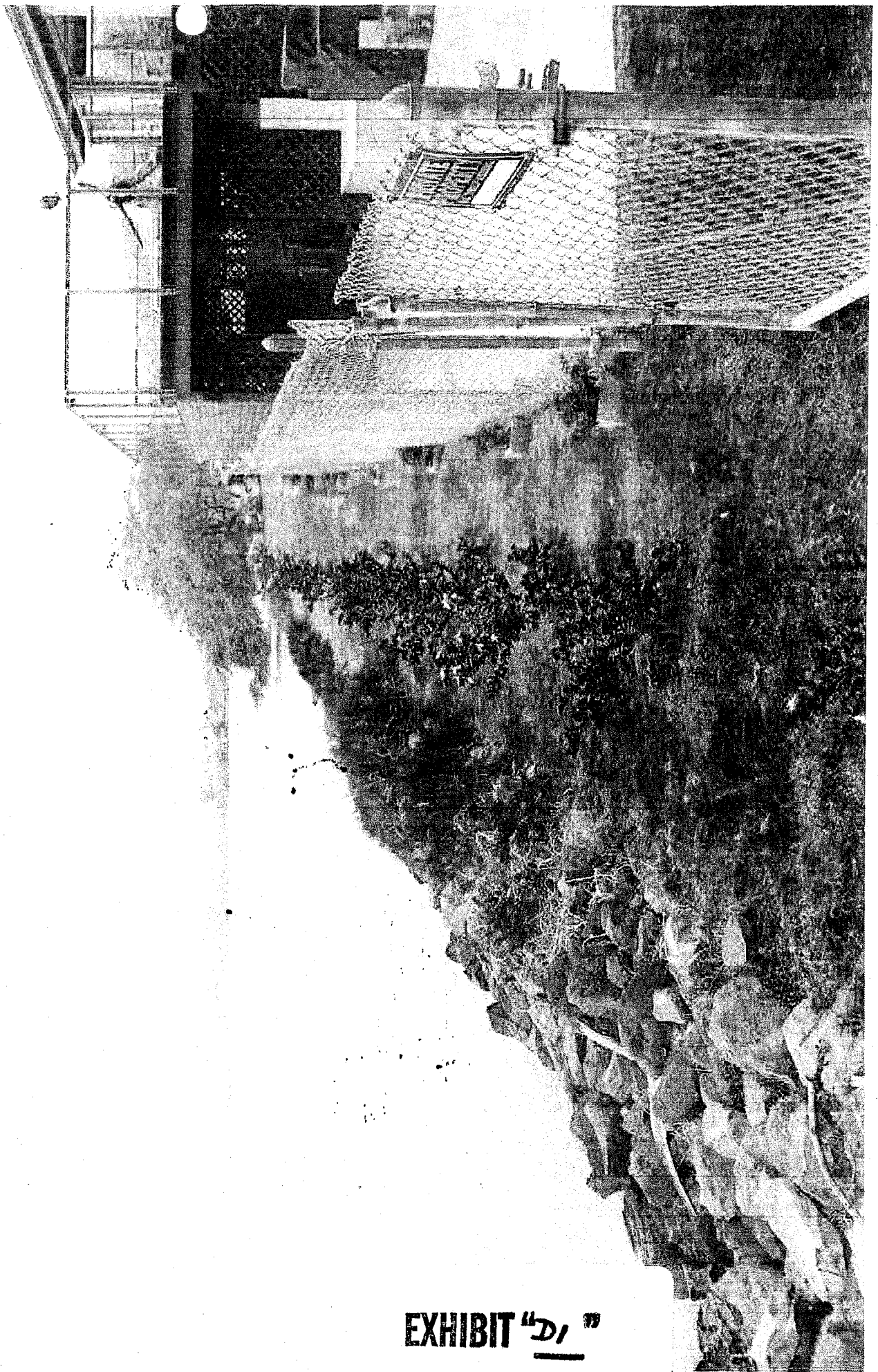
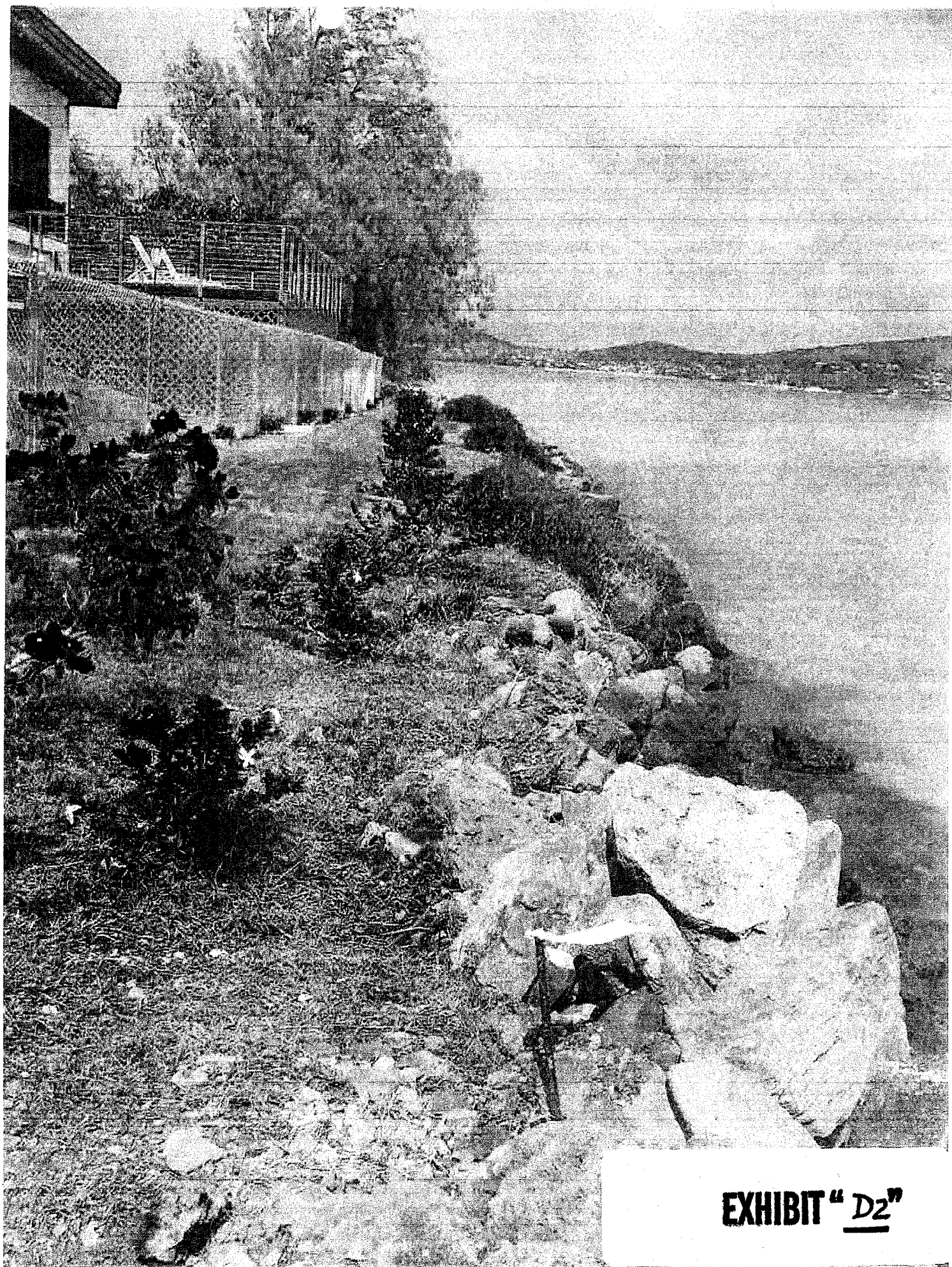


EXHIBIT "D1"



**EXHIBIT "D2"**



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 821  
HONOLULU, HAWAII 96809

DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

April 28, 1978

Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, HI

Gentlemen:

Request for Ratification on Emergency Action

On April 26, 1978, the Department was informed by Mr. Rodney Inaba that due to increasing amounts of wave action immediately adjacent to his house, he was taking what he considered to be emergency action to save his house from being ocean swept.

This action, consisting of bulldozing rock and gravel in front of the house is intended to halt the wash of the waves into the area of the house itself.

Staff investigated the site and compiled a report on the matter (Attached Exhibit "A").


In addition, Staff informed the Director of the Office of Environmental Quality Control that it was treating this matter as an exempt action under the Environmental Quality Commission's Rules and Regulations. Also, this action is analogous to the emergency action taken by the Army Corps with the concurrence of the Environmental Center at the University in correspondence dated April 12, 1978.

RECOMMENDATION:

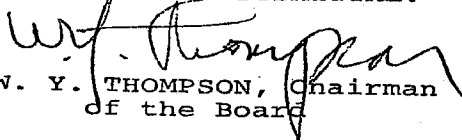
Staff recommends as follows:

That the Board ratify Mr. Inaba's efforts, and Staff's treatment of such an emergency in nature, authorize Mr. Inaba to take such action to the extent that the emergency is alleviated.

Respectfully submitted,

  
ROGER C. EVANS  
Staff Planner

APPROVED FOR SUBMITTAL:

  
W. Y. THOMPSON, Chairman  
of the Board

ADDED ITEM H-13

**EXHIBIT "E"**

MINUTES OF THE  
MEETING OF THE  
BOARD OF LAND AND NATURAL RESOURCES

DATE: April 28, 1978  
TIME: 9:00 A. M.  
PLACE: Keauhou Beach Hotel  
Meeting Room  
Kailua-Kona, Hawaii

ROLL  
CALL

Chairman William Y. Thompson called the meeting of the Board of Land and Natural Resources to order at 9:20 A. M.

MEMBERS

PRESENT

Mr. Moses W. Kealoha (arrived at 10:05 A.M.)  
Mr. Takeo Yamamoto  
Mr. Stanley W. Hong  
Mr. Thomas S. Yagi  
Mr. Roland Higashi  
Mr. William Y. Thompson

STAFF

Mr. James Detor  
Mr. Roger Evans  
Mr. Kenji Ego  
Mr. Joseph M. Souza, Jr.  
Mr. Libert Landgraf  
Mrs. Joan K. Moriyama

OTHERS

Mr. Edwin P. Watson  
Mr. Tom Toyama, DOT  
Mr. Robert Kent (Rock & Reel Production)  
Mrs. Helen Altonn

NEW  
MEMBERS

Mr. Thompson introduced the two new Board members. They were Maui Board Member Thomas Yagi, replacing Mr. Manuel Moniz, Jr., and Hawaii Board Member Roland Higashi, replacing Mr. Larry Mehau.

MINUTES

The March 23, 1978 Minutes were taken up upon Mr. Kealoha's arrival.  
(See page 9 for action.)

ITEM B-1

APPOINTMENT OF VOLUNTEER FISH AND WILDLIFE ENFORCEMENT  
OFFICERS

ACTION

Unanimously approved as submitted. (Yagi/Hong)

ITEM B-2

TERMINATION OF SIX VOLUNTEER FISH AND WILDLIFE ENFORCEMENT  
OFFICERS

Staff recommended the termination of the appointments of the volunteer officers listed in the submittal due to their non participation in the program for more than a year.

ACTION

Unanimously approved as recommended. (Higashi/Yamamoto)

ITEM H-10 CDUA FOR ROAD & TRAIL USE (GRADING) AT KAHALUU, OAHU (HIRAM L. FONG, JR.)

ACTION Unanimously approved as submitted. (Kealoha/Hong)

ITEM H-11 REQUEST FOR PUBLIC HEARING ON APPLICATION FOR USE OF LAND WITHIN THE CONSERVATION DISTRICT FOR COMMUNITY INTEREST PURPOSES (FLORA PACIFICA)

ACTION Upon Mr. Hong's motion and seconded by Mr. Yagi, the Board approved this request. Mr. Kealoha voted no, indicating that they should go to the Land Use Commission.

ITEM H-12 CDUA FOR PUBLIC RECREATIONAL USE (INTERIM PARK IMPROVEMENTS) AT HAENA, KAUAI (DIVISION OF STATE PARKS, OUTDOOR RECREATION & HISTORIC SITES, DLNR)

ACTION Unanimously approved as submitted. (Yamamoto/Hong)

ADDED  
ITEM H-13 REQUEST FOR RATIFICATION ON EMERGENCY ACTION

Mr. Evans took this matter up with OEQC and they have agreed with the final action taken on this matter.

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

MINUTES Mr. Kealoha said on Page 9 of the Minutes of March 23, 1978, concerning the Iolani Palace, should be amended to the extent that senior citizens of the State of Hawaii, as well as the school children, both public and private, be allowed to view the Palace before it is opened to the public.

Mr. Thompson said the action on Item E-3 on page 7 should also be amended. The amount of \$550.00 was deleted and no limit was set at that time, Mr. Thompson said since it was felt that it may be important that the staff archaeologist go there more often to monitor the project.

The Minutes of March 23, 1978 were unanimously approved as amended. (Kealoha/Hong)

ITEM J-1 APPLICATION FOR ISSUANCE OF SPACE PERMITS (REVOCABLE PERMITS), AIR TRANSPORTATION FACILITIES DIVISION

ACTION Unanimously approved as submitted.. (Kealoha/Yamamoto)

ITEM J-2 LEASE FOR THE INSTALLATION, OPERATION, AND MAINTENANCE OF A RUNWAY END IDENTIFIER LIGHTS FACILITY, MOLOKAI AIRPORT (FEDERAL AVIATION ADMINISTRATION)

ACTION Unanimously approved as submitted.. (Yagi/Kealoha)

ITEM J-3 ADDENDUM NO. 3 TO LEASE NO. DOT-A-72-15, HONOLULU INTERNATIONAL AIRPORT, OAHU (HONOLULU FUELING FACILITIES CORPORATION)

The Board was concerned with the condition of the pipes and wanted to know whether pipes were still there; whether there are oil there; and why aren't they taken out.